K

1948.

File No. B.C. Procedure 48

Legal Deptt
P.S. **BRANCH**

Subject:—

L.A. Bill III of 1948

~~A Bill~~ to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay

Bom Act XXXII of 1948

P.29.E

File No. B.C. Procedure/48

Gen. 194 e.

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SMR 26-6-56
4 Co ies.

Office of the R.L.A.

The decision of Government is to establish a Court of Sessions for the jurisdiction of the High Court.

2 The decision can be given effect to by a Bill amending the Code of Criminal Procedure 1898. It will be necessary to amend section 7(1) deleting the brackets "(excluding the Presidency towns)" so that it can also be constituted into a Sessions Division.

3 A number of consequential amendments, however, will be necessary in numerous sections of the Code such as---

193(2) and (3A), 194(1), 206(1) and (2), 211(2), 213(1), 216 proviso 1, 217, 218, 226, 227(1), 266, 267, 315, 334, 335, 347(1), 348, 406, 406A, 408, 411, 411A, 465, 469, 479, 486(3), 498 and 532(1).

4 It does not appear that any change is necessary in the following sections---

31(2), 273, 274, 275, 296, 305, 312 to 314, 333, 339A, 374, Chapter XXVIII, 497, 525 and 539.

5 It appears that some consequential amendments will be necessary also in Schedule II.

6 Before, however, elaborate amendments to the numerous sections of the Code are settled, and a regular Bill is drafted, it will be advisable for the Home Department to examine very carefully all these sections referred to above as well as other sections of the code and settle whether any further provision is necessary to be made and also to obtain the remarks of the High Court and then give detailed instructions to the Legal Department for the drafting of the requisite Bill.

Id./.....
Remembrancer of Legal Affairs.
U.O. to H.D., No. 1706, dated the 20th February 1947.

SMJ 29-5-86 4 Copies.

Office of the Rele.As.

The requisite draft Bill to amend the Code of Criminal Procedure, 1898, is sent herewith.

2 The subject-matter of the Bill falls under entries 1 and 2 in List II and entries 2 and 15 in List III in the Seventh Schedule to the Government of India Act, 1935.

3 The Bill does not require any sanction of the Governor but requires his recommendation under section 82(3) of the Government of India Act, 1935 as it involves expenditure from the revenues of the Province. It does not affect any special responsibility of the Governor under section 52(1) of the Act. It is true that section 1(2) of the Code of Criminal Procedure, 1898, expressly provides that nothing therein contained shall affect any special or local law in force at the date of the passing of the Code, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force. As such, if any other law were now made providing that the offences in Greater Bombay shall be tried not by the Criminal Sessions of the High Court but by a Sessions Judge appointed for the Sessions Division of Greater Bombay, it will not be repugnant, inview of this saving provision in the Act itself, to the Code of Criminal Procedure. However, since the amendments for the establishment of a Sessions Court for Greater Bombay will be incorporated in the Code itself, I do not think that this can be said to be a special or local law or to have conferred any special jurisdiction or power or prescribed any special form of procedure under any other law for the time being in force. Since clause 2 of the Bill contains provisions which are repugnant to the provisions contained in the Code f Criminal Procedure, 1898 , particularly section 7(1), ("excluding the presidency-town") which is an existing Indian law relating to a matter falling under entry 2 in the Concurrent Legislative List, the Bill will have to be reserved for the consideration of the Governor-General with reference to section 107(2) of the Government of India Act, 1935.

The Home Department will no doubt prepare the Statement of Objects and Reasons.

Id/.....
Remembrancer of Legal Affairs.

U.R. to H.D., No. 2742 A, dated the 20th March 1947.

SMR 29-5-56
4 Copies.

Office of the R.L.A.

A draft Bill providing for the establishment of the Sessions Court for Greater Bombay, as approved by the Cabinet, is sent herewith. H.D. is requested to examine the laws (including Letters Patent) relating to the Clerk of the Crown, the Sheriff of Bombay and the police and see whether any amendments would be necessary in these laws.

2 A copy of the draft Bill is sent to the Press, H.D. is requested to prepare the necessary Statements of Objects and Reasons and send the papers to L.D. inorder to enable it to publish the Bill.

Id./ P.M.L. 12-1-48
Remembrancer of Legal Affairs.

U.O. to H.D. No. 395 dated the 13th January 1948.

SMR 29-5-56
4 Copies.

No. 6 of 194

Advocate General's Chambers,
High Court,
Bombay, 12th January 1948.

Re - Bill to amend the Code of Criminal Procedure 1898, in its application to the Province of Bombay.

I think that it is better that the provisions of the Le ters Patent, clauses 22 and 23 should be amend-ed so as to exclude any possible argument that notwithstanding the amendment of the Criminal Procedure Code, the Ordinary Original Criminal Jurisdiction of the High Court remains unaffected, I have nothing further to say about this Bill.

Sd./.....

Advocate General.

SMR 29-5-56
4 Copies.

STATEMENT OF OBJECTS AND REASONS.

At present there is no separate Sessions Court for Greater Bombay, and all sessions cases from that area are tried at the criminal sessions of the Bombay High Court. Appeals from the decisions of Presidency Magistrates are also heard by the High Court, and ~~entail~~ ~~enormous~~ ~~expenses~~. It is considered that this arrangement throws a heavy burdern upon the High Court, and recently Government appointed Mr. P.B.Lad, I.C.S., on special duty to make a report on the proposa for the establishment of a separate Sessions Court for Greater Bombay along with the proposal for the establis -ment of a City Civil Court.

It is found that the establishment of a separate Sessions Court for Greater Bombay would result in the saving of judicial power in the High Court, since it is considered unnecessary that the valuable time of High Court Judges should be devoted to criminal trials which all over the Province of Bombay and in other Provinces, are held before Sessions Judges and their assistants. The establishment of such Court would secure to the accused in Greater Bombay a more liberal right of appeal than is available to him at present; in particular he would get the benefit of the rule which makes death sentences subject to confirmation by a Bench of the High Court. It is further expected to result in a saving to Public revenues.

The object of the Bill is to constitute a separate Sessions Court by making suitable amendments in the relevant provisions of the Code of Criminal Procedure. constituting this Court, which will generally follow the procedure of the Sessions Courts in the mofussil, all the privileges which an accused person inGreater Bombay enjoys at present in the matter of criminal trials have been left entirely unimpaired. Power has been given to hear appeals from the decisions of Presidency Magistrates

so as to make the practice in this matter uniform throughout the Province.

23-1-48

Gd/.....

BGR 30-5-66
6 Copies.

Home Department,

Bombay Castle, 1st March 1948.

O R D E R.

No. In exercise of the powers conferred upon him by sub-section(3) of section 82 of the Government of India Act, 1935, the Governor of Bombay is pleased to recommend to the Bombay Legislative Council the consideration of the Code of Criminal Procedure(Bombay Amendment) Bill, 1948.

By order of the Governor of Bombay,

Id./.....

Secretary to the Government of Bombay,
Home Department.

SMR 30-5-50
4 Copies.

No. 2501
Legal Department,
Bombay Castle, 12th March 1948.

From

P.M.Lad, Esquire, I.C.S.,
Secretary to the Government of Bombay,
Legal Department.

To

The Private Secretary to the Governor of Bombay,

Subject:- A Bill to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay.

Sir,

With reference to section 75 of the Government of India Act, 1935, I am directed to forward herewith for being presented to His Excellency the Governor the authentic copy of the Bill to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 24th February 1948 and on the 4th March 1948, respectively.

2 The subject-matter of the Bill falls under entries 1 and 2 in List II and entries 2 and 15 in List III in the Seventh Schedule to the Government of India Act, 1935. Since the clause 2 of the Bill contains provisions which are repugnant to the provisions contained in the Code of Criminal Procedure, 1898, particularly section 7(1), ("excluding the presidency-town",) which is an existing law relating to a matter falling under entry 2 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the Governor General with reference to section 107(2) of the Government of India Act, 1935.

3 I also forward herewith six copies of each of the Items Nos. 1 to 3 and three copies of item No, 4 of the papers noted in the margin. The Bill was not referred to

a Select Committee

1	Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.
2	Bill as read for the third time and passed by the Bombay Legislative Assembly and as introduced in the Bombay Legislative Council.
3	Bill as read for the third time and passed by the Bombay Legislative Council.
4	Extracts from the proceedings of the Bombay Legislative Assembly dated the 24th February 1948 and of the Bombay Legislative Council dated the 4th March 1948.

I have the honour to be,
Sir,
Your most obedient servant,

Id./P.M.L. 11/3.
Secretary to the Government of Bombay,
Legal Department.

Through
The Secretary to the Government of Bombay,
Home Department.

BMR 30-5-56
4 Copies.

No. P.S.G.-/328
Office of the Private Secretary to the Governor,
Government House,
Bombay 19th March 1948.

From

L.M.Nadkarni, Esquire, I.C.S.,
Private Secretary to the Governor of Bombay.

To

The Secretary to the Bombay Legislature Dept.,
Council Hall, Bombay.

Subject: The Code of Criminal Procedure (Bombay Amendment)Bill, 1948.

Sir,

With reference to the Code of Criminal Procedure (Bombay Amenement)Bill, 1948, which was read for the third time and passed at the meet ngs of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 24th February and 4th March 1948, respectively, I am directed to state, for the information of the Honourable the Speaker and the Honourable the President, that as clause 2 of the Bill contains provisions which are repugnant to the provisions contained in the Code of Criminal Procedure, 1898, particularly section 7(1)(" excluding the presidency-town") which is an existing law relating to a matter falling under entry 2 in the Concurrent Legislature List, it is necessary to reserve the Bill for the consideration of His Excellency the Governor-General with reference to section 107(2) of the Government of India Act, 1935. His Excellency the Govenor is accordingly pleased, under section 75 of the Government of India Act, 1935, to declare that he reserves the Bill for the consideration of His Excellency the Governor -General

Your obedient servant,

Sd./L.M.NADKARNI.
Private Secretary to the
Governor of Bombay.

No. P.S.G. /328
Office of the Private Secretary to the Governor,
Government House.
Bombay, 19th March 1948.

Co y forwarded with compliments for information to-
(1) The Secretary to Government, Legal Department, with reference to his letter No. 2501, dated 12th March 1948.

Etc.,

By order of the Governor of Bombay,
Id./.....
Private Secretary to the Governor of Bombay.

SMR 30-5-56
4 Copies.

No. P.S.G. 1654.

FROM

L.M.Nadkarni, Esquire, I.C.S.,
Private SECRETARY TO THE GOVERNOR OF BOMBAY

To

The Secretary to Government,
Legal Department.

Subject: The Code of Criminal Procedure (Bombay Amendment)Bill, 1948.

GOVERNMENT HOUSE.
BOMBAY 9th April 1948.

Sir,

With reference to the correspondence resting with my endorsement No. P.S.G.-1328, dated 19th March 1948, I am desired to inform you that His Excellency th Governor-General has,under the provisions of section 76(1) of the Government of India Act, 1935, assented to the Code of Criminal Procedure(Bombay Amendment)Bill, 1948, on the 3rd April1948.

2 The authentic co y of the Bill, with His Excellency the Governor-General's assent signified thereon, is forwarded herewith.

Your obedient servant,

Sd./ .....
for Private Secretary to the Governor of Bombay.

SMR 30-5-56
4 Copies.

No. P.S.G. 1654.

FROM

L.M.Nadkarni, Esquire, I.C.S.,
Private SECRETARY TO THE GOVERNOR OF BOMBAY

To

The Secretary to Government,
Legal Department.

Subject: The Code of Criminal Procedure (Bombay Amendment)Bill, 1948.

GOVERNMENT HOUSE.
BOMBAY 9th April 1948

Sir,

With reference to the correspondence resting with my endorsement No. P.S.G.-1328, dated 19th March 1948, I am desired to inform you that His Excellency the Governor-General has,under the provisions of section 76(1) of the Government of India Act, 1935, assented to the Code of Criminal Procedure(Bombay Amendment)Bill, 1948, on the 3rd April1948.

2 The authentic co y of the Bill, with His Excellency the Governor-General's assent signified thereon, is forwarded herewith.

Your obedient servant,

Sd./ .....
for Private Secretary to the Governor of Bombay.

SMR 30-5-56
4 Copies.

Bills.

A Bill to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay.

GOVERNMENT OF BOMBAY.
Legal Department.
Resolution No. 838.
Bombay Castle, 23rd January 1948.

RESOLUTION :-- The Bill with the Statement of Objects and Reasons should be forwarded to the Manager, Government Central Press, Bombay for publi-cation in the Bombay Government Gazette, dated the 23rd January 1948, as Bill No. III of 1948.

2 The Bill and the Statement of Objects and Reasons should be translated into Marathi, Gujarati, Kannada, and Hindustani(in Urdu and Devnagri scripts) and the translations should be published in the Bombay Government Gazette, on the 30th January 1948.

3 The dates of the various publications should be reported to the Bombay Legislature Department.

By order of the Governor of Bombay,
Sd./ S.L.Chaudhari,
Assistant Secretary to Government.

To

The Manager, Government Central Press, Bombay (with the Bill and S.O.R. and with a request that 230 Gazette copies of the Bill and the S.O.R. may be forwarded to the Secretary to the Bombay [redacted] Legislature Department for distribution to the Members of the Bombay Legislative Assembly and 25 copies [redacted] for the use of the Legal Department and 20 copies for the use of H.D.

Etc.

SMR 30-5-56
4 Copies.

Acts.

Publication of the Code of Crimina Procedure (Bombay Amendment) Act, 1948.

GOVERNMENT OF BOMBAY,
Legal Department,
Resolution No. 3490
Bombay Castle, 10th April 1948.

Letter to the Private Secretary to the Governor No, 2501, dated the 12th March 1948.

Letter from the Private Secretary to the Governor, No. P.S.G. 1654, dated the 9th April1948.-

'With reference to the co respondence resting with my endorsement No. P.S.G. 1328, dated the 19th March 1948, I am desired to inform you that His Excellency the Governor-General has, under the provisions of section 76(1) of the Government of India Act, 1935, assented to the Code of Criminal Procedure (Bombay Amendment) Bill, 1948. on the 3rd April 1948.

2 The authentic copy of the Bill, with His Excellency the Governor-General's assent signified thereon, is forwarded herewith."

RESOLUTION:- The law should be published as Bombay Act No. XXXII of 1948, in the Bombay Government Gazette dated the 10th April 1948.

2 The Act should be translated into Marathi, Gujarati, Kannada and Hindustani(in Urdu and Devnagri scrip and the translations should be published in the Bombay Government Gazette.

3 A copy of the Act should be forwarded to th Home Department.

By order of the Governor of Bombay,

Sd./ S.L.Chaudhari,
Assistant Secretary to Government.

To

The Manager, Government Central Press, Bombay(with a copy of the Act and with a request that 30 Gazette copies of the Act may be forwarded to the Legal Department).

Etc.

BMR 30-5-56
4 Copies.

Acts.

Publication of the Code of Criminal Procedure (Bombay Amendment) Act, 1948.

GOVERNMENT OF BOMBAY,
Legal Department,
Resolution No. 3490
Bombay Castle, 10th April 1948.

Letter to the Private Secretary to the Governor No, 2501, dated the 12th March 1948.

Letter from the Private Secretary to the Governor, No. P.S.G. 1654, dated the 9th April1948.-

"With reference to the correspondence resting with my endorsement No. P.S.G. 1328, dated the 19th March 1948, I am desired to inform you that His Excellency the Governor-General has, under the provisions of section 76(1) of the Government of India Act, 1935, assented to the Code of Criminal Procedure (Bombay Amendment) Bill, 1948. on the 3rd April 1948.

2 The authentic copy of the Bill, with His Excellency the Governor-General's assent signified thereon, is forwarded herewith."

RESOLUTION:- The law should be published as Bombay Act No. XXXII of 1948, in the Bombay Government Gazette dated the 10th April 1948.

2 The Act should be translated into Marathi, Gujarati, Kannada and Hindustani(in Urdu and Devnagri scripts and the translations should be published in the Bombay Government Gazette.

3 A copy of the Act should be forwarded to the Home Department.

By order of the Governor of Bombay,

Sd./ S.L.Chaudhari,
Assistant Secretary to Government.

To

The Manager, Government Central Press, Bombay(with copy of the Act and with a request that 30 Gazette copies of the Act may be forwarded to the Legal Department).

Etc.

SMR 30-5-56
4 Copies.

Registered No. B-1

The Bombay Government Gazette

PUBLISHED BY AUTHORITY

FRIDAY, 23RD JANUARY 1948.

Separate paging is given to this Part in order that it may be filed as a separate compilation

PART V

To be translated into Marathi, Gujarati, Kannada and Hindust (in Urdu and Devnagari scripts) and the translations to be published in the "Bombay Government Gazette". The dates of publications to be reported.]

The following Bill is published under the proviso to rule 80 of the Bombay Legislative Assembly Rules :—

L. A. BILL No. II OF 1948.

A Bill to establish an additional Civil Court for Greater Bombay.

WHEREAS it is expedient to establish an additional Civil Court for the Greater Bombay ; It is hereby enacted as follows :—

1. (*1*) This Act may be called the Bombay City Civil Court Act, 1948. Short title and commencement.

(*2*) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint in this behalf.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*1*) "City Court" means the court established under section 3 ;

(*2*) "High Court" means the High Court of Judicature at Bombay ;

(*3*) "institution fee" means the court fee payable in respect of the plaint or application by which a suit or proceeding is instituted ;

(*4*) "Small Cause Court" means the Court of Small Causes of Bombay.

(*5*) "special law" means a law [illegible] subject,

Constitution of City Court.

3. The Provincial Government may, by notification in the *Official Gazette*, establish for the Greater Bombay a court, to be called the Bombay City Civil Court. Notwithstanding anything contained in any law, such court shall have jurisdiction to receive, try and dispose of all suits and other proceedings of a civil nature not exceeding ten thousand rupees in value, and arising within the Greater Bombay, except suits or proceedings which are cognizable—

(*a*) by the High Court as a Court of Admiralty or Vice-Admiralty or as a Colonial Court of Admiralty, or as a Court having testamentary, intestate or matrimonial jurisdiction, or

(*b*) by the High Court for the relief of insolvent debtors, or

(*c*) by the High Court under any special law other than the Letters Patent, or

(*d*) by the Small Cause Court:

Provided that the Provincial Government may, from time to time, after consultation with the High Court, by a like notification extend the jurisdiction of the City Court to any suits or proceedings of the nature specified in clauses (*a*) and (*b*).

Power of Provincial Government to enhance jurisdiction of City Court.

4. Subject to the exceptions specified in section 3, the Provincial Government may, by notification in the *Official Gazette*, invest the City Court with jurisdiction to receive, try and dispose of all suits and other proceedings of a civil nature arising within the Greater Bombay and of such value not exceeding twenty-five thousand rupees as may be specified in the notification.

Subordination to and superintendence by High Court.

5. The City Court shall be deemed to be a court subordinate to and subject to the superintendence of the High Court within the meaning of the Letters Patent of the High Court and of the Code of Civil Procedure, 1908. V of 1908

Appointment of Judges.

6. The Provincial Government may, by notification in the *Official Gazette*, appoint as many persons as it thinks fit to be Judges of the City Court.

Powers of Judges when City Court consists of more than one Judge.

7. When the City Court consists of more than one Judge—

(*a*) each of the Judges may exercise all or any of the powers conferred on the Court by this Act or any other law for the time being in force;

(*b*) the Provincial Government may appoint any one of the Judges to be the principal Judge;

(*c*) the principal Judge may from time to time make such arrangements as he may think fit for the distribution of the business of the court among the various Judges thereof.

Registrar.

8. (*1*) The Provincial Government may appoint an officer to be called the Registrar of the City Court. He shall be the chief ministerial officer of the court; and shall exercise such powers and discharge such duties of a ministerial nature as the Judge of the City Court, or when the court consists of more than one Judge, the principal Judge may, from time to time, by rules direct.

(*2*) The Provincial Government may, with the previous approval of the High Court, invest the Registrar with any powers of the Judge of the City Court other than powers of trying suits and proceedings.

Questions arising in suits, etc. under Act to be dealt with according to law administered by High Court.

9. Save as otherwise provided in this Act all questions which arise in suits or other proceedings under this Act in the City Court shall be dealt with and determined according to the law for the time being administered by the High Court in the exercise of its ordinary original civil jurisdiction.

Fees for process.

10. (*1*) The High Court shall, from time to time, with the sanction of the Provincial Government prescribe and regulate the fees to be taken for any process issued by the City Court, or by any officer of such court.

(*2*) Table of the fees so prescribed shall be published in the *Official Gazette*.

Repayment of institution fee under certain circumstances.

11. (*1*) When any suit in the City Court is settled by agreement of the parties before issues have been settled or any evidence recorded, half the amount of the institution fee paid by the plaintiff shall be repaid to him by the court.

(*2*) The Provincial Government may, from time to time, by order, provide for repayment of any part of the institution fee to plaintiffs in suits disposed of under such circumstances as may be specified in the order.

High Court jurisdiction barred except in certain cases.

12. Notwithstanding anything contained in any law, the High Court shall not have jurisdiction to try suits and proceedings cognizable by the City Court:

Provided that the High Court may, for any special reason, and at any stage remove for trial by itself any suit or proceeding from the City Court.

Allowance for fees paid in City Court in cases removed to High Court.

13. When any suit or proceeding is removed for trial to the High Court from the City Court under section 12—

(*a*) it shall be heard and disposed of by the High Court in the exercise of its original civil jurisdiction and the said Court shall have all the powers and jurisdiction in respect thereof as if it had been originally instituted in such Court;

(*b*) court fee on the scale for the time being in force in the High Court as a court of original civil jurisdiction shall be payable in that court in respect of the suit or proceeding therein :

Provided that in the levy of any such fee which, according to the practice of the court, is credited to the Provincial Government, credit shall be given for the institution fee already paid in the City Court.

Appeals and limitation.

14. (*1*) An appeal shall lie to the High Court from—

(*a*) every decree passed by the Judge of the City Court, and

(*b*) such orders passed by the said Judge as are specified in and to the extent provided for by section 104 of the Code of Civil Procedure, 1908. V of 1908.

(*2*) The period of limitation for an appeal from a decree or order of the City Court shall be thirty days from the day of such decree or order.

Seal of City Court.

15. The City Court shall use a seal of such form and dimensions as may be for the time being prescribed by the Provincial Government.

Holidays and vacations.

16. (*1*) The Judge of the City Court, or, when the Court consists of more than one Judge, the principal Judge, shall, at the commencement of each year, draw up a list of holidays and vacations to be observed in the court, and shall submit the same for the approval of the High Court.

(*2*) Such list, when it has received such approval, shall be published in the *Official Gazette*, and the said holidays and vacations shall be observed accordingly.

Transfer of suits pending in High Court.

17. (*1*) All suits and proceedings cognizable by the City Court and pending in the High Court, the hearing of which has not commenced on or before the date of the coming into force of this Act, shall be transferred to the City Court and shall be heard and disposed of by the City Court and the City Court shall have all the powers and jurisdiction thereof as if they had been originally instituted in that Court.

(*2*) In any suit or proceeding so transferred institution fee shall be paid, credit being given to any court fee levied in the High Court; and costs incurred in the High Court till the date of the transfer shall be assessed by the City Court in such manner as the Provincial Government may, after consultation with the High Court, determine by rules.

STATEMENT OF OBJECTS AND REASONS.

The proposal for the establishment of a City Civil Court for Bombay has been engaging the attention of the public and of Government for over 50 years. During this period there has been a growing demand for the establishment of such Court, and a draft Bill closely modelled upon the Madras City Civil Court Act, 1892, was even published by Government in the year 1931. Recently, Mr. P M. Lad, I.C.S., was appointed on special duty to make a report on this proposal.

On examining the report Government considers that it is desirable to establish a City Civil Court for Greater Bombay with a pecuniary jurisdiction of Rs. 10,000 in the first instance. The draft Bill is intended to give effect to Government's decision in this matter.

The salient features of the Bill calling for notice are as follows:—The admiralty, testamentary, matrimonial and insolvency jurisdiction of the High Court has at present been left unaffected as also the jurisdiction conferred upon the High Court under any special law other than the Letters Patent. The pecuniary jurisdiction of the City Civil Court is fixed in the first instance at Rs. 10,000, and power has been taken to enhance it up to Rs. 25,000. The City Civil Court will be subordinate to and subject to the superintendence of the High Court. Appeals will lie to the High Court, and the High Court will have the power for any special reason at any stage to remove for trial by itself any suit or proceeding from the City Civil Court. The law, which does not include the procedure in force in the High Court (Compare I.L.R. 58 Madras 511), to be administered by the City Civil Court shall be the same for the time being administered by the High Court in the exercise of its ordinary original civil jurisdiction. With a view to giving relief in court fees to suitors in causes which are determined without trial, provision has been made for the repayment of a part of the court fee paid upon institution. The Bill contains provisions for the appointment of Judges, and for the appointment of a Registrar whom it is proposed to invest with powers for the purpose of saving judicial time. Under the transitory provisions, all suits and proceedings cognizable by the City Civil Court and pending in the High Court, except those the hearing of which has commenced, will be transferred to the City Civil Court; but in all such matters provision has been made for giving credit for the court-fee already levied in the High Court and also for assessing costs incurred in the High Court till the date of transfer.

(Signed) MORARJI DESAI.

Dated 23rd January 1948.

By order of the Governor of Bombay,

...tary to the Government of Bombay,
Legal Department.

Bombay, dated 23rd January 1948.

[To be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations to be published in the "Bombay Government Gazette". The dates of publication to be reported.]

The following Bill is published under the proviso to rule 80 of the Bombay Legislative Assembly Rules :—

L. A. BILL No. III OF 1948.

A Bill to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay, for the purposes hereinafter appearing ; It is hereby enacted as follows :— V of 1898.

Short title and commencement.

1. (*1*) This Act may be called the Code of Criminal Procedure (Bombay Amendment) Act, 1948.

(*2*) It shall come into force on such date as the Provincial Government may by notification in the *Official Gazette* appoint.

Amendment of section 7 of Act V of 1898.

2. In section 7 of the Code of Criminal Procedure, 1898 (hereinafter called the said Code), V of 1898.

(*a*) in sub-section (*1*), the brackets and words "(excluding the presidency-towns)" shall be deleted ; and

(*b*) after sub-section (*1*), the following new sub-section shall be inserted, namely :—

Greater Bombay to be sessions division.

"(*1A*) For the purposes of this Code, Greater Bombay shall be a sessions division."

Amendment of heading "C" in Chapter II of Act V of 1898.

3. In Chapter II of the said Code, for the heading "*C—Courts and Offices outside the Presidency-towns*" the heading "*C—Court of Session for Greater Bombay and Courts and Offices outside Greater Bombay*" shall be substituted.

Amendment of section 123 of Act V of 1898.

4. In section 123 of the said Code,—

(*a*) in sub-section (*2*),—

(i) in the marginal note the words "High Court or" shall be deleted; and

(ii) the words "or, if such Magistrate is a Presidency Magistrate, pending the orders of the High Court," shall be deleted; and

(*b*) in sub-section (3A), the words "or the High Court" shall be deleted.

Amendment of section 267 of Act V of 1898.

5. In the marginal note of section 267 of the said Code after the words "High Court" and in section 267 of the said Code after the words "High Court" where they occur for the first time, the words "or the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 268 of Act V of 1898.

6. In section 268 of the said Code, at the beginning the words and figures "Subject to the provisions of section 267" shall be inserted.

Amendment of section 269 of Act V of 1898.

7. In sub-section (*1*) of section 269 of the said Code, after the word "Session" the words "other than the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 274 of Act V of 1898.

8. In section 274 of the said Code,—

(*a*) in sub-section (*1*), after the words "High Court" the words "or the Court of Session for Greater Bombay" shall be inserted; and

(*b*) in sub-section (*2*), for the words "before the Court" the words "before any other Court" shall be substituted.

Amendment of section 27 of Act V of 1898.

9. In section 276 of the said Code, in clause *thirdly* of the proviso, after the words "of such High Court" the words "or before the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 277 of Act of 1898.

10. In sub-section (*2*) of section 277 of the said Code, after the words "High Court" the words "or the Court of Session for Greater Bombay" shall be inserted.

Amendmen of section 296 of Act of 1898.

11. In section 296 of the said Code, after the words "such Court" the words "or the Court of Session for Greater Bombay" shall be inserted.

Amendmer of section 305 of Act of 1898.

12. In the marginal note of section 305 and in sub-section (*1*) of section 305 of the said Code, after the words "High Court" the words "or the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 123 of Act V of 1898.

4. In section 123 of the said Code,—

(*a*) in sub-section (*2*),—

(i) in the marginal note the words "High Court or" shall be deleted; and

(ii) the words "or, if such Magistrate is a Presidency Magistrate, pending the orders of the High Court," shall be deleted; and

(*b*) in sub-section (3A), the words "or the High Court" shall be deleted.

Amendment of section 267 of Act V of 1898.

5. In the marginal note of section 267 of the said Code after the words "High Court" and in section 267 of the said Code after the words "High Court" where they occur for the first time, the words "or the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 268 of Act V of 1898.

6. In section 268 of the said Code, at the beginning the words and figures "Subject to the provisions of section 267" shall be inserted.

Amendment of section 269 of Act V of 1898.

7. In sub-section (*1*) of section 269 of the said Code, after the word "Session" the words "other than the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 274 of Act V of 1898.

8. In section 274 of the said Code,—

(*a*) in sub-section (*1*), after the words "High Court" the words "or the Court of Session for Greater Bombay" shall be inserted; and

(*b*) in sub-section (*2*), for the words "before the Court" the words "before any other Court" shall be substituted.

Amendment of section 276 of Act V of 1898.

9. In section 276 of the said Code, in clause *thirdly* of the proviso, after the words "of such High Court" the words "or before the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 277 of Act V of 1898.

10. In sub-section (*2*) of section 277 of the said Code, after the words "High Court" the words "or the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 296 of Act V of 1898.

11. In section 296 of the said Code, after the words "such Court" the words "or the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 305 of Act V of 1898.

12. In the marginal note of section 305 and in sub-section (*1*) of section 305 of the said Code, after the words "High Court" the words "or the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 306 of Act V of 1898.

13. In sub-section (*1*) of section 306 of the said Code, after the word "Session" the words "other than the Court of Session for Greater Bombay" shall be inserted.

Amendment of heading "*J*" in Chapter XXIII of Act V of 1898.

14. In Chapter XXIII of the said Code, in the heading "*J*"—

(*a*) after the words "*High Court*" the words "*and the Court of Session for Greater Bombay*" shall be inserted; and

(*b*) for the words "*that Court*" the words "*such Courts*" shall be substituted.

Amendment of section 312 of Act V of 1898.

15. In section 312 of the said Code, after the word "list" the words "for the High Court and the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 315 of Act V of 1898.

16. In section 315 of the said Code, for the words "in the town which is the usual place of sitting of each High Court" the words "of the High Court in the town which is the usual place of sitting of such High Court and for each sessions of the Court of Session for Greater Bombay" shall be substituted.

Amendment of heading "*K*" in Chapter XXIII of Act V of 1898.

17. In Chapter XXIII of the said Code in the heading "*K*", after the words "*Court of Session*" the words "*other than the Court of Session for Greater Bombay*" shall be inserted.

Amendment of heading "*L*" in Chapter XXIII of Act V of 1898.

18. In Chapter XXIII of the said Code in the heading "*L*", after the words "High Courts" the words "and the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 333 of Act V of 1898.

19. In section 333 of the said Code, after the words "before a High Court" the words "or the Court of Session for Greater Bombay" shall be inserted.

Amendment of sections 354 and 356 of Act V of 1898.

20. In the marginal notes of sections 354 and 356, the words "outside presidency-towns" shall be deleted.

Amendment of section 373 of Act V of 1898.

21. For the marginal note to section 373 of the said Code the marginal note "Copy of finding and sentence to be sent to District Magistrate or Commissioner of Police" shall be substituted and to section 373 of the said Code, the following proviso shall be added, namely:—

"Provided that the Court of Session for Greater Bombay shall send such copy to the Commissioner of Police for Greater Bombay."

Amendment of section 406 of Act V of 1898.

22. In section 406 of the said Code, the following shall be deleted, namely :—

"(*a*) if made by a Presidency Magistrate, to the High Court;

(*b*) if made by any other Magistrate,"

Amendment of section 406A of Act V of 1898.

23. In section 406A of the said Code, for clauses (*a*) to (*c*) the following shall be substituted, namely :—

"(*a*) if made by a Presidency Magistrate or the District Magistrate, to the Court of Session; or

(*b*) if made by any other Magistrate, to the District Magistrate.".

Amendment of section 411 of Act V of 1898.

24. In section 411 of the said Code, for the words "High Court" the words "Court of Session for Greater Bombay" shall be substituted."

Amendment of section 413 of Act V of 1898.

25. In section 413 of the said Code,—

(*a*) after the words "High Court" the words "or the Court of Session for Greater Bombay" shall be inserted;

(*b*) for the words "a Court of Session" where they occur for the first time the words "any other Court of Session" shall be substituted; and

(*c*) after the words "Court of Session" where they occur for the second time the words "other than that for Greater Bombay" shall be inserted.

Amendment of section 436 of Act V of 1898.

26. In section 436 of the said Code, after the words "District Magistrate" where they occur for the first time, the words "or in Greater Bombay, the Chief Presidency Magistrate" shall be inserted.

Amendment of section 441 of Act V of 1898.

27. In section 441 of the said Code, after the words "High Court" the words "or the Sessions Judge, as the case may be," shall be inserted.

Amendment of section 449 of Act V of 1898.

28. In sub-section (*1*) of section 449 of the said Code, after clause (*c*) the following shall be inserted, namely :—

"or,

(*d*) a case is tried by jury in the Court of Session for Greater Bombay, which if it had been tried outside a Presidency-town, have been triable under the provisions of this Chapter,".

Amendment of section 554 of Act V of 1898.

29. In section 554 of the said Code, after sub-section (*1*) the following new sub-section shall be inserted, namely :—

Power of High Court of Bombay to make rules for Court of Session for Greater

"(*1A*) With the previous sanction of the Provincial Government, the High Court of Judicature at Bombay may also make rules for regulating the practice and proceedings of the Court of Session for Greater Bombay."

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22. In section 406 of the said Code, the following shall be deleted, namely :— Amendment of section 406 of Act V of 1898.

"(*a*) if made by a Presidency Magistrate, to the High Court;

(*b*) if made by any other Magistrate,"

23. In section 406A of the said Code, for clauses (*a*) to (*c*) the following shall be substituted, namely :— Amendment of section 406A of Act V of 1898.

"(*a*) if made by a Presidency Magistrate or the District Magistrate, to the Court of Session; or

(*b*) if made by any other Magistrate, to the District Magistrate.".

24. In section 411 of the said Code, for the words "High Court" the words "Court of Session for Greater Bombay" shall be substituted." Amendment of section 411 of Act V of 1898.

25. In section 413 of the said Code,— Amendment of section 413 of Act V of 1898.

(*a*) after the words "High Court" the words "or the Court of Session for Greater Bombay" shall be inserted;

(*b*) for the words "a Court of Session" where they occur for the first time the words "any other Court of Session" shall be substituted; and

(*c*) after the words "Court of Session" where they occur for the second time the words "other than that for Greater Bombay" shall be inserted.

26. In section 436 of the said Code, after the words "District Magistrate" where they occur for the first time, the words "or in Greater Bombay, the Chief Presidency Magistrate" shall be inserted. Amendment of section 436 of Act V of 1898.

27. In section 441 of the said Code, after the words "High Court" the words "or the Sessions Judge, as the case may be," shall be inserted. Amendment of section 441 of Act V of 1898.

28. In sub-section (*1*) of section 449 of the said Code, after clause (*c*) the following shall be inserted, namely :— Amendment of section 449 of Act V of 1898.

"

or,

(*d*) a case is tried by jury in the Court of Session for Greater Bombay, which if it had been tried outside a Presidency-town, have been triable under the provisions of this Chapter,".

29. In section 554 of the said Code, after sub-section (*1*) the following new sub-section shall be inserted, namely :— Amendment of section 554 of Act V of 1898.

"(*1A*) With the previous sanction of the Provincial Government, the High Court of Judicature at Bombay may also make rules for regulating the practice and proceedings of the Court of Session for Greater Bombay." Power of High Court of Bombay to make rules for Court of Session for Greater Bombay

Amendment of form No. XXVIII of Schedule V to Act V of 1898.

30. In form No. XXVIII—Charges—in Schedule V to the said Code, the brackets and words "[*when the charge is framed by a Presidency Magistrate, for* Court of Session *substitute* High Court]" shall be deleted.

Transitory provision.

31. Nothing in this Act shall affect any case, appeal or proceeding pending in the High Court on the date this Act comes into force and every such case, appeal or proceeding shall be tried, heard and disposed of as if this Act had not been passed.

STATEMENT OF OBJECTS AND REASONS.

At present there is no separate Sessions Court for Greater Bombay, and all sessions cases from that area are tried at the criminal sessions of the Bombay High Court. Appeals from the decisions of Presidency Magistrates are also heard by the High Court. It is considered that this arrangement throws a heavy burden upon the High Court, and recently Government appointed Mr. P. M. Lad, I.C.S., on special duty to make a report on the proposal for the establishment of a separate Sessions Court for Greater Bombay along with the proposal for the establishment of a City Civil Court.

It is found that the establishment of a separate Sessions Court for Greater Bombay would result in the saving of judicial power in the High Court, since it is considered unnecessary that the valuable time of High Court Judges should be devoted to criminal trials which, all over the Province of Bombay and in other Provinces, are held before Sessions Judges and their assistants. The establishment of such Court would secure to the accused in Greater Bombay a more liberal right of appeal than is available to him at present; in particular he would get the benefit of the rule which makes death sentences subject to confirmation by a Bench of the High Court. It is further expected to result in a saving to public revenues.

The object of the Bill is to constitute a separate Sessions Court by making suitable amendments in the relevant provisions of the Code of Criminal Procedure. In constituting this Court, which will generally follow the procedure of the Sessions Courts in the mofussil, all the privileges which an accused person in Greater Bombay enjoys at present in the matter of criminal trials have been left entirely unimpaired. Power has been given to hear appeals from the decisions of Presidency Magistrates so as to make the practice in this matter uniform throughout the Province.

(Signed) [illegible]

Dated 23rd January 1948.

By order of the Governor of Bombay,

P. M. LAD,
Secretary to the Government of Bomba
Legal Departm

Bombay, dated 23rd January 1948.

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS.

The Bombay Government Gazette

PUBLISHED BY AUTHORITY

SATURDAY, 10TH APRIL 1948.

Separate paging is given to this Part in order that it may be filed as a separate compilation

PART IV

(1) Acts of the Local Legislature of the Bombay Province and (2) Acts of the Indian Legislature assented to by the Governor General.

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BOMBAY ACT No. XXXII OF 1948—An Act to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay ...	332—335

The following Act of the Bombay Legislature having been assented to by the Governor General on the 3rd April 1948 is hereby published for general information.

P. M. LAD,
Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XXXII OF 1948.

(First published, after having received the assent of the Governor General, in the "Bombay Government Gazette" on the 10th April 1948.)

An Act to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows :—

V of 1898.

Short title and commencement.

1. (*1*) This Act may be called the Code of Criminal Procedure (Bombay Amendment) Act, 1948.

(*2*) It shall come into force on such date as the Provincial Government may by notification in the *Official Gazette* appoint.

V of 1898.

Amendment of section 7 of Act V of 1898.

2. In section 7 of the Code of Criminal Procedure, 1898 (hereinafter called the said Code),—

(*a*) in sub-section (*1*), the brackets and words "(excluding the presidency-towns)" shall be deleted; and

(*b*) after sub-section (*1*), the following new sub-section shall be inserted, namely :—

Greater Bombay to be sessions division.

"(*1A*) For the purposes of this Code, Greater Bombay shall be a sessions division."

Amendment of heading "C" in Chapter II of Act V of 1898.

3. In Chapter II of the said Code, for the heading "*C—Courts and Offices outside the Presidency-towns*" the heading "*C—Court of Session for Greater Bombay and Courts and Offices outside Greater Bombay*" shall be substituted.

Amendment of section 267 of Act V of 1898.

4. In the marginal note of section 267 of the said Code after the words "High Court" and in section 267 of the said Code after the words "High Court" where they occur for the first time, the words "or the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 268 of Act V of 1898.

5. In section 268 of the said Code, at the beginning the words and figures "Subject to the provisions of section 267" shall be inserted.

Amendment of section 269 of Act V of 1898.

6. In sub-section (*1*) of section 269 of the said Code, after the word "Session" the words "other than the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 274 of Act V of 1898.

7. In section 274 of the said Code,—

(*a*) in sub-section (*1*), after the words "High Court" the words "or the Court of Session for Greater Bombay" shall be inserted; and

(*b*) in sub-section (*2*), for the words "before the Court" the words "before any other Court" shall be substituted.

Amendment of section 276 of Act V of 1898.

8. In section 276 of the said Code, in clause *thirdly* of the proviso, after the words "of such High Court" the words "or before the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 277 of Act V of 1898.

9. In sub-section (*2*) of section 277 of the said Code, after the words "High Court" the words "or the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 296 of Act V of 1898.

10. In section 296 of the said Code, after the words "such Court" the words "or the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 305 of Act V of 1898.

11. In the marginal note of section 305 and in sub-section (*1*) of section 305 of the said Code, after the words "High Court" the words "or the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 306 of Act V of 1898.

12. In sub-section (*1*) of section 306 of the said Code after the word "Session" the words "other than the Court of Session for Greater Bombay" shall be inserted.

13. In Chapter XXIII of the said Code, in the heading "*J*"— Amendment of heading "*J*" in Chapter XXIII of Act V of 1898.

(*a*) after the words "*High Court*" the words "*and the Court of Session for Greater Bombay*" shall be inserted; and

(*b*) for the words "*that Court*" the words "*such Courts*" shall be substituted.

14. In section 312 of the said Code, after the word "list" the words "for the High Court and the Court of Session for Greater Bombay" shall be inserted. Amendment of section 312 of Act V of 1898.

15. In section 315 of the said Code, for the words "in the town which is the usual place of sitting of each High Court" the words "of the High Court in the town which is the usual place of sitting of such High Court and for each sessions of the Court of Session for Greater Bombay" shall be substituted. Amendment of section 315 of Act V of 1898.

16. In Chapter XXIII of the said Code in the heading "*K*", after the words "*Court of Session*" the words "*other than the Court of Session for Greater Bombay*" shall be inserted. Amendment of heading "*K*" in Chapter XXIII of Act V of 1898.

17. In Chapter XXIII of the said Code in the heading "*L*", after the words "*High Courts*" the words "*and the Court of Session for Greater Bombay*" shall be inserted. Amendment of heading "*L*" in Chapter XXIII of Act V of 1898.

18. In section 333 of the said Code, after the words "before a High Court" the words "or the Court of Session for Greater Bombay" shall be inserted. Amendment of section 333 of Act V of 1898.

19. In the marginal notes of sections 354 and 356, the words "outside presidency-towns" shall be deleted. Amendment of sections 354 and 356 of Act V of 1898.

20. For the marginal note to section 373 of the said Code the marginal note "Copy of finding and sentence to be sent to District Magistrate or Commissioner of Police" shall be substituted and to section 373 of the said Code, the following proviso shall be added, namely:— Amendment of section 373 of Act V of 1898.

"Provided that the Court of Session for Greater Bombay shall send such copy to the Commissioner of Police for Greater Bombay."

21. In section 413 of the said Code,— Amendment of section 413 of Act V of 1898.

(*a*) after the words "High Court" the words "or the Court of Session for Greater Bombay" shall be inserted;

(*b*) for the words "a Court of Session" where they occur for the first time the words "any other Court of Session" shall be substituted; and

(*c*) after the words "Court of Session" where they occur for the second time the words "other than that for Greater Bombay" shall be inserted.

Amendment of section 435 of Act V of 1898.

22. In sub-section (*1*) of section 435 of the said Code, after the words "any Sessions Judge" the words "other than the Sessions Judge of the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 436 of Act V of 1898.

23. In section 436 of the said Code, after the words "Sessions Judge" the words "other than the Sessions Judge of the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 437 of Act V of 1898.

24. In section 437 of the said Code, after the words "Sessions Judge" where they occur for the first time the words "other than the Sessions Judge of the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 438 of Act V of 1898.

25. In sub-section (*1*) of section 438 of the said Code, after the words "Sessions Judge" the words "other than the Sessions Judge of the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 449 of Act V of 1898.

26. In sub-section (*1*) of section 449 of the said Code, after clause (*c*) the following shall be inserted, namely :—

"or,

(*d*) a case is tried by jury in the Court of Session for Greater Bombay, which if it had been tried outside a Presidency-town, have been triable under the provisions of this Chapter,".

Amendment of section 554 of Act V of 1898.

27. In section 554 of the said Code, after sub-section (*1*) the following new sub-section shall be inserted, namely :—

Power of High Court of Bombay to make rules for Court of Session for Greater Bombay.

"(*1A*) With the previous sanction of the Provincial Government, the High Court of Judicature at Bombay may also make rules for regulating the practice and proceedings of the Court of Session for Greater Bombay."

Amendment of form No. XXVIII of Schedule V to Act V of 1898.

28. In form No. XXVIII—Charges—in Schedule V to the said Code, the brackets and words "[*when the charge is framed by a Presidency Magistrate, for* Court of Session *substitute* High Court]" shall be deleted.

Transitory provision.

29. Nothing in this Act shall affect any case, appeal or proceeding pending in the High Court on the date this Act comes into force and every such case, appeal or proceeding shall be tried, heard and disposed of as if this Act had not been passed.

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PART V

[To be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations to be published in the "Bombay Government Gazette". The dates of publications to be reported.]

The following Bill is published under the proviso to rule 80 of the Bombay Legislative Assembly Rules :—

L. A. BILL No. II OF 1948.

A Bill to establish an additional Civil Court for Greater Bombay.

WHEREAS it is expedient to establish an additional Civil Court for the Greater Bombay ; It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Bombay City Civil Court Act, 1948.

(*2*) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint in this behalf.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "City Court" means the court established under section 3 ;

(*2*) "High Court" means the High Court of Judicature at Bombay ;

(*3*) "institution fee" means the court fee payable in respect of the plaint or application by which a suit or proceeding is instituted ;

(*4*) "Small Cause Court" means the Court of Small Causes of Bombay.

(*5*) "special law" means a law applicable to a particular subject,

onstitution of City Court.

3. The Provincial Government may, by notification in the *Official Gazette*, establish for the Greater Bombay a court, to be called the Bombay City Civil Court. Notwithstanding anything contained in any law, such court shall have jurisdiction to receive, try and dispose of all suits and other proceedings of a civil nature not exceeding ten thousand rupees in value, and arising within the Greater Bombay, except suits or proceedings which are cognizable—

(*a*) by the High Court as a Court of Admiralty or Vice-Admiralty or as a Colonial Court of Admiralty, or as a Court having testamentary, intestate or matrimonial jurisdiction, or

(*b*) by the High Court for the relief of insolvent debtors, or

(*c*) by the High Court under any special law other than the Letters Patent, or

(*d*) by the Small Cause Court:

Provided that the Provincial Government may, from time to time, after consultation with the High Court, by a like notification extend the jurisdiction of the City Court to any suits or proceedings of the nature specified in clauses (*a*) and (*b*).

Power of Provincial Government to enhance jurisdiction of City Court.

4. Subject to the exceptions specified in section 3, the Provincial Government may, by notification in the *Official Gazette*, invest the City Court with jurisdiction to receive, try and dispose of all suits and other proceedings of a civil nature arising within the Greater Bombay and of such value not exceeding twenty-five thousand rupees as may be specified in the notification.

Subordination to and superintendence by High Court.

5. The City Court shall be deemed to be a court subordinate to and subject to the superintendence of the High Court within the meaning of the Letters Patent of the High Court and of the Code of Civil Procedure, 1908. V of 1908.

Appointment of Judges.

6. The Provincial Government may, by notification in the *Official Gazette*, appoint as many persons as it thinks fit to be Judges of the City Court.

Powers of Judges when City Court consists of more than one Judge.

7. When the City Court consists of more than one Judge—

(*a*) each of the Judges may exercise all or any of the powers conferred on the Court by this Act or any other law for the time being in force;

(*b*) the Provincial Government may appoint any one of the Judges to be the principal Judge;

(*c*) the principal Judge may from time to time make such arrangements as he may think fit for the distribution of the business of the court among the various Judges thereof.

(*b*) court fee on the scale for the time being in force in the High Court as a court of original civil jurisdiction shall be payable in that court in respect of the suit or proceeding therein :

Provided that in the levy of any such fee which, according to the practice of the court, is credited to the Provincial Government, credit shall be given for the institution fee already paid in the City Court.

Appeals and limitation.

14. (*1*) An appeal shall lie to the High Court from—

(*a*) every decree passed by the Judge of the City Court, and

(*b*) such orders passed by the said Judge as are specified in and to the extent provided for by section 104 of the Code of Civil Procedure, 1908. V of 1

(*2*) The period of limitation for an appeal from a decree or order of the City Court shall be thirty days from the day of such decree or order.

Seal of City Court.

15. The City Court shall use a seal of such form and dimensions as may be for the time being prescribed by the Provincial Government.

Holidays and vacations.

16. (*1*) The Judge of the City Court, or, when the Court consists of more than one Judge, the principal Judge, shall at the commencement of each year, draw up a list of holidays and vacations to be observed in the court, and shall submit the same for the approval of the High Court.

(*2*) Such list, when it has received such approval, shall be published in the *Official Gazette*, and the said holidays and vacations shall be observed accordingly.

Transfer of suits pending in High Court.

17. (*1*) All suits and proceedings cognizable by the City Court and pending in the High Court, the hearing of which has not commenced on or before the date of the coming into force of this Act, shall be transferred to the City Court and shall be heard and disposed of by the City Court and the City Court shall have all the powers and jurisdiction thereof as if they had been originally instituted in the Court.

(*2*) In any suit or proceeding so transferred institution fee shall be paid, credit being given to any court fee levied in the High Court, and costs incurred in the High Court till the date of the transfer shall be assessed by the City Court in such manner as the Provincial Government may after consultation with the High Court, determine by rules.

STATEMENT OF OBJECTS AND REASONS.

The proposal for the establishment of a City Civil Court for Bombay has been engaging the attention of the public and of Government for over 50 years. During this period there has been a growing demand for the establishment of such Court, and a draft Bill closely modelled upon the Madras City Civil Court Act, 1892, was even published by Government in the year 1931. Recently, Mr. P M. Lad, I.C.S., was appointed on special duty to make a report on this proposal.

On examining the report Government considers that it is desirable to establish a City Civil Court for Greater Bombay with a pecuniary jurisdiction of Rs. 10,000 in the first instance. The draft Bill is intended to give effect to Government's decision in this matter.

The salient features of the Bill calling for notice are as follows:—The admiralty, testamentary, matrimonial and insolvency jurisdiction of the High Court has at present been left unaffected as also the jurisdiction conferred upon the High Court under any special law other than the Letters Patent. The pecuniary jurisdiction of the City Civil Court is fixed in the first instance at Rs. 10,000, and power has been taken to enhance it up to Rs. 25,000. The City Civil Court will be subordinate to and subject to the superintendence of the High Court. Appeals will lie to the High Court, and the High Court will have the power for any special reason at any stage to remove for trial by itself any suit or proceeding from the City Civil Court. The law, which does not include the procedure in force in the High Court (Compare I.L.R. 58 Madras 511), to be administered by the City Civil Court shall be the same for the time being administered by the High Court in the exercise of its ordinary original civil jurisdiction. With a view to giving relief in court fees to suitors in causes which are determined without trial, provision has been made for the repayment of a part of the court fee paid upon institution. The Bill contains provisions for the appointment of Judges, and for the appointment of a Registrar whom it is proposed to invest with powers for the purpose of saving judicial time. Under the transitory provisions, all suits and proceedings cognizable by the City Civil Court and pending in the High Court, except those the hearing of which has commenced, will be transferred to the City Civil Court; but in all such matters, provision has been made for giving credit for the court fee already levied in the High Court and also for assessing costs incurred in the High Court till the date of transfer.

(Signed) MORARJI DESAI.

Dated 23rd January 1948.

By order of the Governor of Bombay,

P. M. LAD,
Secretary to the Government of Bombay,
Legal Department.

Bombay, dated 23rd January 1948

4. In section 123 of the said Code,— Amendment of section 123 of Act V of 1898.

(*a*) in sub-section (*2*),—

(i) in the marginal note the words "High Court or" shall be deleted; and

(ii) the words "or, if such Magistrate is a Presidency Magistrate, pending the orders of the High Court," shall be deleted; and

(*b*) in sub-section (3A), the words "or the High Court" shall be deleted.

5. In the marginal note of section 267 of the said Code after the words "High Court" and in section 267 of the said Code after the words "High Court" where they occur for the first time, the words "or the Court of Session for Greater Bombay" shall be inserted. Amendment of section 267 of Act V of 1898.

6. In section 268 of the said Code, at the beginning the words and figures "Subject to the provisions of section 267" shall be inserted. Amendment of section 268 of Act V of 1898.

7. In sub-section (*1*) of section 269 of the said Code, after the word "Session" the words "other than the Court of Session for Greater Bombay" shall be inserted. Amendment of section 269 of Act V of 1898.

8. In section 274 of the said Code,— Amendment of section 274 of Act V of 1898.

(*a*) in sub-section (*1*), after the words "High Court" the words "or the Court of Session for Greater Bombay" shall be inserted; and

(*b*) in sub-section (*2*), for the words "before the Court" the words "before any other Court" shall be substituted.

9. In section 276 of the said Code, in clause *thirdly* of the proviso, after the words "of such High Court" the words "or before the Court of Session for Greater Bombay" shall be inserted. Amendment of section 276 of Act V of 1898.

10. In sub-section (*2*) of section 277 of the said Code, after the words "High Court" the words "or the Court of Session for Greater Bombay" shall be inserted. Amendment of section 277 of Act V of 1898.

11. In section 296 of the said Code, after the words "such Court" the words "or the Court of Session for Greater Bombay" shall be inserted. Amendment of section 296 of Act V of 1898.

12. In the marginal note of section 305 and in sub-section (*1*) of section 305 of the said Code, after the words "High Court" the words "or the Court of Session for Greater Bombay" shall be inserted. Amendment of section 305 of Act V of 1898.

Amendment of section 306 of Act V of 1898.

13. In sub-section (*1*) of section 306 of the said Code, after the word "Session" the words "other than the Court of Session for Greater Bombay" shall be inserted.

Amendment of heading "*J*" in Chapter XXIII of Act V of 1898.

14. In Chapter XXIII of the said Code, in the heading "*J*"—

(*a*) after the words "*High Court*" the words "*and the Court of Session for Greater Bombay*" shall be inserted; and

(*b*) for the words "*that Court*" the words "*such Courts*" shall be substituted.

Amendment of section 312 of Act V of 1898.

15. In section 312 of the said Code, after the word "list" the words "for the High Court and the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 315 of Act V of 1898.

16. In section 315 of the said Code, for the words "in the town which is the usual place of sitting of each High Court" the words "of the High Court in the town which is the usual place of sitting of such High Court and for each sessions of the Court of Session for Greater Bombay" shall be substituted.

Amendment of heading "*K*" in Chapter XXIII of Act V of 1898.

17. In Chapter XXIII of the said Code in the heading "*K*", after the words "*Court of Session*" the words "*other than the Court of Session for Greater Bombay*" shall be inserted.

Amendment of heading "*L*" in Chapter XXIII of Act V of 1898.

18. In Chapter XXIII of the said Code in the heading "*L*", after the words "High Courts" the words "and the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 333 of Act V of 1898.

19. In section 333 of the said Code, after the words "before a High Court" the words "or the Court of Session for Greater Bombay" shall be inserted.

Amendment of sections 354 and 356 of Act V of 1898.

20. In the marginal notes of sections 354 and 356, the words "outside presidency-towns" shall be deleted.

Amendment of section 373 of Act V of 1898.

21. For the marginal note to section 373 of the said Code the marginal note "Copy of finding and sentence to be sent to District Magistrate or Commissioner of Police" shall be substituted and to section 373 of the said Code, the following proviso shall be added, namely:—

"Provided that the Court of Session for Greater Bombay shall send such copy to the Commissioner of Police for Greater Bombay."